

MEMORANDUM FOR THE RECORD

Event: Interview Ron Bane

Type of Event: Telephonic interview

Date of Event: Friday, May 21, 2010; 9:00 a.m.

Team Leader: Desi Duncker

Location: FCIC Headquarters, 1717 Pennsylvania Ave NW, Washington, DC

Participants - Non-Commission:

- Ron Bane

Participants - Commission:

- Desi Duncker
- Carl McCarden
- Sarah Knaus

MFR Prepared by: Sarah Knaus

Date of MFR: June 1, 2010

Summary of the Interview or Submission:

Duncker: As I said in my email we generally record our interviews and for the record we'll identify everyone at the table. This call is in relation to your submission about the Sergey Aleynikov case and your thoughts on high speed trading in general.

Bane: I'm an engineer. I also passed the Series 65 exam 15 years ago. I've been involved in the stock market in one way or another since I was a teenager. I'm 70 years old.

Duncker: Let's get to your email submission. I'll read the relevant parts we're interested in: "Goldman is using this program..." "This program operates in an illegal matter..." Can you tell us how you feel their trading platform violates securities laws?

Bane: I'm not an attorney, so when I write an email it's as a layman. I'm not an expert in securities law, but I have a good feel for what's legal in a soft way. I just want to say that I'm not an attorney.

Duncker: We have plenty of attorneys here that can verify.

Bane: Is everyone on this call an attorney?

Duncker: No. We're all former investment bankers.

Bane: So you have worked as traders or market makers in the securities business.

Duncker: We have experience working in the securities and investment bank industry.

Bane: Are you knowledgeable in options?

Duncker: At a surface level, but not a level of detail that you would be.

Bane: Do you know what I mean when I say Level II trading?

Duncker: Level II assets?

Bane: That is completely different. Okay. Everything that I want to say or that I have seen and the reason I wrote this email has to do with Level II trading. It's an important item.

McCarden: I used to trade NASDAQ, are you talking about Instanet?

Bane: Instanet is just one of many electronic trading platforms.

McCarden: Is that level 2?

Bane: No. Level 2 is public information, not something that is proprietary. Anybody can gain access to it. It shows you on your computer screen, the complete book/listing of the prices, quantities, asked prices, asked quantities, and the time and date of every trade for a security for a particular security on NASDAQ. It shows that to you so you can watch it on your screen. It shows you the name of the company that is bidding, or the name of the company that is offering to sell on the ask side.

McCarden: I know what you're talking about.

Bane: That's Level II.

McCarden: That's how we interacted with other broker-dealers. It gives the size and the quote and the broker-dealer at different price levels.

Bane: So you can see right in front of you clearly on a particular stock who's bidding for it, how much they're bidding, who's selling, and how much they're offering to sell it for. Let me ask one other question. The thing that struck me when I became aware of this Alexi lawsuit, Goldman Sachs is a regulated bank. Why should they be allowed to trade secretly using a secret program? That's the question. Why should anybody, especially a regulated bank, be allowed to trade stocks secretly? Can anybody answer that for me?

Duncker: I wouldn't have an answer for you in terms of why bank holding companies are allowed to have high speed trading platforms

Bane: That are secret.

Duncker: Right. That's why we're on the phone with you.

Bane: The whole basis for their lawsuit is that they want to trade stocks on a public exchange secretly without having anybody look at whether they're legal or manipulative. The SEC should be able to walk in at any minute of any day and see exactly what they're doing. Goldman is saying that we've got this proprietary trading program and want to

Duncker: To what extent is this being held from SEC, or is it an employee taking proprietary code to use at a competitor?

Bane: I'm not a lawyer, but I'm reading that Goldman Sachs has asked the judge not to let people see the program. I'm not sure if it's not let the SEC or a competitor. I don't know why the FCIC hasn't walked into Goldman and asked

Duncker: We have an ongoing investigation that I'm not at liberty to discuss, but I think it's a fair question.

Bane: I've seen this for years and years. It's fairly simple. If you pull up Level II trading and look at any stock, Microsoft, Amazon, Google, whatever, you see that there's a bid price and you see what companies are offering to buy the stock for. On the right side of the screen is the ask, what other companies are willing to sell it for. What I see all the time is where, not just limited to Goldman, if the bid is \$100 and the ask is \$102, all of a sudden on the bid side, Goldman bids \$105. The ask price is still \$102. It happens all the time. I'm talking about every minute of virtually every day. You will see Goldman and others come in and bid \$105. All of a sudden they price the last trade. They're offering to buy it at \$3 more than someone is offering to sell it. That's not the way stock exchanges are supposed to work. The whole integrity of the system is based on buying at the lowest price and selling it at the highest. Am I communicating that so far?

Duncker: Yes.

Bane: The reason that they do this, is if Goldman owns a million shares of Microsoft and the last trade is \$100/share and all of a sudden they bid for 100 shares \$105 then they've spent \$10,000 and their portfolio has increased in value by \$5 million because the million shares on their balance sheet are all of a sudden boosted by \$5/stock.

Duncker: That makes sense. What happens after the trade in the asset price?

Bane: The bid can now go up to \$105, or \$104, or \$106. The stock will trade around the \$105 mark.

McCarden: this is close to the end of the day?

Bane: Really good question. Let me tell you when it happens most frequently. It happens around option expiration time, because Goldman and others have placed large debts on the option market. And they've bought and/or sold options that kind of center around whatever price it is, they're going to manipulate the stock. If Goldman had priced an option contract, they want that stock to close on that day at \$105, because they make their maximum profit. They've sold off and they've taken in a lot of money. If that stock closes at \$105, they make 100% of that money as profit. You see that happen all of the time. This happens instantaneously. This is where I believe where their high speed high frequency trading program does.

Duncker: So do you think their high speed trading platform is linked to the levels at which they trade their options?

Bane: I do. The people on CNBC and CNN and Fox, they talk about this all the time. It's called window dressing, and it's illegal in my opinion.

McCarden: They used to call it marking the close.

Bane: It's manipulation, and it never used to happen when I was a young man, because we didn't have the high speed trading computers.

McCarden: I haven't been in the market in a long time, but I thought they were moving to a system away from not having to send a trade message, but they're moving away from that so you can't do things at that. Mechanically how are they doing that?

Bane: I can't answer that because it happens so quickly. They may buy 100 shares at \$102 and then in the next nanosecond go \$105. It's tiny, the amount of money it takes to manipulate the market. I can't answer it. If someone knowledgeable, like you all, would look at their high frequency trading program, which they are trying so desperately to protect, the software would show it to them. It would spill its guts. The computer doesn't program itself. There are sophisticated, smart traders that program it to do this. It'd be obvious to look at it. It happens all the time near 4pm. Any time they want to mark the close, it happens every day.

Duncker: You see this more end of the day?

Bane: I see it all the time. I'm so sick of looking at it because it's underhanded. It hurts me as an American investor. I'm sure I see it more in options expiration, and at the end of the day. At the end of the day, at 3:59:59, all of a sudden there's a bid at 108 and that's the close price. And whoever owns 10 million shares of that stock just made 8 million dollars.

McCarden: Does it stay at these levels in the aftermarket?

Bane: Options don't trade after market.

McCarden: I mean the actual stocks.

Bane: There was a time in the year 2000 when everybody was trading. That's when the aftermarket was real busy.

McCarden: That's when I left.

Bane: I hope you got out at the right time. I'm laughing with you, not at you. The aftermarket was real busy. Today with the volumes as low as they are, the aftermarket exists in a very small way. I don't even look at the aftermarkets anymore. Basically, the only people trading the market are institutions today. Mom and Pop people are not driving the market, it's the institutions that are. That's my opinion.

Duncker: It's an opinion that's gained strength in the past couple of weeks.

Bane: For anybody that's knowledgeable like you guys, it wouldn't be difficult to unravel this and get a handle on what's going on. Phil Angelides would love to see this. I watched most of the public sessions that they have, and I don't think any of the committee has the knowledge to understand what's going on, but I'm sure the staff, with knowledgeable traders who can look into this stuff, can come up with a whole bunch of knowledge.

Duncker: The first thing you recommend is to look at the high speed code?

Bane: Absolutely. You have the ability to look at it. There's no reason they use a secret program to trade public stock. If you want to call me another time or meet with you to look at it, I can see the point of what the program is supposed to do. If I can help in any way, I am more than available.

Duncker: Thank you.